

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES DANIEL SMALLBOY,

Defendant.

CR 18-13-GF-BMM

ORDER

Defendant James Smallboy (Smallboy) appeared before United States Magistrate Judge John Johnston on April 4, 2018, and entered a plea of guilty to Assault Resulting in Serious Bodily Injury as charged in Count I of the Indictment. Judge Johnston entered Findings and Recommendations on April 4, 2018. (Doc. 35). Judge Johnston determined: (1) that Smallboy was fully competent and capable of entering an informed and voluntary plea; (2) that Smallboy was aware of the nature of the charges against him and the consequences of pleading guilty to Count I; (3) that Smallboy understood his constitutional rights, and the extent to which he was waving those rights by pleading guilty; (4) that Smallboy's plea of guilty was a knowing and voluntary plea supported by an independent basis in fact establishing each of the essential elements of the offense charged in Count I; (5) that Smallboy had adequate time to review the Plea Agreement with counsel; and (6) that Smallboy understood each provision of the Plea Agreement. (Doc. 35 at 1-

2). Judge Johnston recommended that this Court accept Smallboy's plea of guilty to Assault Resulting in Serious Bodily Injury as charged in Count I. (Doc. 35 at 2). Neither party filed objections to Judge Johnston's Findings and Recommendations.

Given that no objections were filed, the Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full.

Accordingly, IT IS ORDERED:

1. Smallboy's Motion to Change Plea (Doc. 23) is GRANTED.
2. The Court will defer acceptance of the Plea Agreement (Doc. 25) until sentencing, at which time the Court will have reviewed both the Plea Agreement and the Presentence Investigation Report.

DATED this 19th day of April, 2018.



Brian Morris
United States District Court Judge